

replies under section F.2. of this appendix. The DOHA Appeal Board may require oral argument at a time and place reasonable convenient to the parties.

4. The determination of the DOHA Appeal Board shall be a final administrative decision and shall be in written form. It shall address the issues presented and set forth a rationale for the decision reached. A determination denying the appeal of a parent in whole or in part shall state that the parent has the right under Pub. L. 101-476, as amended, to bring a civil action on the matters in dispute in a district court of the United States without regard to the amount in controversy.

5. No provision of this part or other DoD guidance may be construed as conferring a further right of administrative review. A party must exhaust all administrative remedies afforded by this appendix before seeking judicial review of a determination made under this appendix.

G. Publication and Indexing of Final Decisions

The Director, DOHA, shall ensure that final decisions in cases arising under this Appendix are published and indexed to protect the privacy rights of the parents who are parties in those cases and the children of such parents, in accordance with 32 CFR part 310.

PART 81—PATERNITY CLAIMS AND ADOPTION PROCEEDINGS INVOLVING MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES

Sec.

81.1 Reissuance and purpose.

81.2 Applicability.

81.3 Policy.

AUTHORITY: Sec. 301, 80 Stat. 379; (5 U.S.C. 301).

SOURCE: 43 FR 15149, Apr. 11, 1978, unless otherwise noted.

§81.1 Reissuance and purpose.

This part reissued DoD Directive 1344.3, "Paternity Claims and Adoption Proceedings Involving Members and Former Members of the Armed Forces," to standardize procedures for the handling of:

(a) Paternity claims against members and former members of the Armed Forces, and

(b) Requests from civilian courts concerning the availability of members and former members of the Armed Forces to appear at an adoption hear-

ing where it is alleged that such member is the father of an illegitimate child.

§81.2 Applicability.

The provisions of this part apply to the Military Departments.

§81.3 Policy.

(a) *Members on active duty.* (1) Allegations of paternity against members of the Armed Forces who are on active duty will be transmitted to the individual concerned by the appropriate military authorities.

(2) If there exists a judicial order or decree of paternity or child support duly rendered by a United States or foreign court of competent jurisdiction against such a member, the commanding officer in the appropriate Military Departments will advise the member of his moral and legal obligations as well as his legal rights in the matter. See 42 U.S.C. 659. The member will be encouraged to render the necessary financial support to the child and take any other action considered proper under the circumstances.

(3) Communications from a judge of a civilian court, including a court summons or a judicial order, concerning the availability of personnel to appear at an adoption hearing, where it is alleged that an active duty member is the father of an illegitimate child, shall receive a reply that:

(i) Due to military requirements, the member cannot be granted leave to attend any court hearing until (date), or

(ii) A request by the member for leave to attend an adoption court hearing on (date), if made, would be approved, or

(iii) The member has stated in a sworn written statement (forward a copy with response) that he is not the natural parent of the child, or

(iv) Due to the member's unavailability caused by a specific reason, a completely responsive answer cannot be made.

(4) The member should be informed of the inquiry and the response and urged to obtain legal assistance for guidance (including an explanation of sections of the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. appendix, section 501 et seq., if appropriate).

(b) *Members not on active duty.* (1) Allegations of paternity against members of the Armed Forces who are not on active duty shall be forwarded to the individual concerned in such manner as to ensure that the allegations are delivered to the addressee only. Military channels will be used when practicable.

(2) Communications from a judge of a civilian court, including a court summons or judicial order, concerning the availability of personnel to appear at an adoption hearing, where it is alleged that the member not on active duty is the father of an illegitimate child shall receive a reply that such person is not on active duty. A copy of the communication and the reply will be forwarded to the named individual.

(3) When requested by a court, the last known address of inactive members may be furnished under the same conditions as set forth for former members under paragraph (c)(2) (i) and (ii) of this section.

(c) *Former members.* (1) In all cases of allegations of paternity against former members of the Armed Forces or communication from a judge of a civilian court, including a judicial summons or court order, concerning the adoption of an illegitimate child of former members of the Armed Forces who have been separated from the Military Services, i.e., those members now holding no military status whatsoever, the claimant or requester will be (i) informed of the date of discharge, and (ii) advised that the individual concerned is no longer a member of the Armed Forces in any capacity, and that the Military Departments assume no responsibility for the whereabouts of individuals no longer under their jurisdiction. The correspondence and all accompanying documentation shall be returned to the claimant or requester.

(2) In addition, the last known address of the former member will be furnished to the requester:

(i) If the request is supported by a certified copy of either:

(A) A judicial order or decree of paternity or support duly rendered against a former member by a United States or foreign court of competent jurisdiction; or

(B) A document which establishes that the former member has made an

official admission or statement acknowledging paternity or responsibility for support of a child before a court of competent jurisdiction, administrative or executive agency, or official authorized to receive it; or

(C) A court summons, judicial order, or similar document of a court within the United States in a case concerning the adoption of an illegitimate child; wherein the former serviceman is alleged to be the father.

(ii) If the claimant, with the corroboration of a physician's affidavit, alleges and explains an unusual medical situation which makes it essential to obtain information from the alleged father to protect the physical health of either the prospective mother or the unborn child.

PART 85—HEALTH PROMOTION

Sec.

85.1 Purpose.

85.2 Applicability and scope.

85.3 Definitions.

85.4 Policy.

85.5 Responsibilities.

85.6 Procedures.

AUTHORITY: 5 U.S.C. 301.

SOURCE: 53 FR 33123, Aug. 30, 1988, unless otherwise noted.

§ 85.1 Purpose.

(a) This part establishes a health promotion policy within the Department of Defense to improve and maintain military readiness and the quality of life of DoD personnel and other beneficiaries.

(b) This part replaces 32 CFR part 203 and establishes policy on smoking in DoD occupied buildings and facilities.

§ 85.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Agencies.

(b) It is directed to all military personnel and retirees, their families, and, where specified, to civilian employees.

§ 85.3 Definitions.

Health Promotion. Any combination of health education and related organizational, social, economic or health care